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Notice to Insurers Regarding Automobile Personal Injury Protection (PIP):

Legislative clarifications to the Personal Injury Protection (PIP) laws and a recent Washington state court case make this a good time for insurance companies to review their PIP provisions. Additionally, company claims staff should be informed of the changes to ensure that losses are paid according to the law rather than in line with outdated insurance contract provisions.

[HOUSE BILL 1084](#) amended [Chapter 48.22 RCW](#) effective July 27, 2003. The purpose of this bill was to clarify and simplify the PIP laws. The result is a law that makes statutory requirements clearer and compliance easier. For instance, it is now more obvious that PIP with \$10,000 "medical and hospital benefits" limits must be offered, and limits of \$35,000 must be available. A company may offer PIP coverage with "medical and hospital benefits" limits between \$10,000 and \$35,000, or over \$35,000, if it wishes. The same concept on limits applies to the other PIP coverages.

Boag v. Farmers Ins. Co., 117 Wn. App. 116., is a case involving PIP coverage. In it the Court of Appeals said that insurers must use statutory terms to describe mandatory coverages. In this case, the insurer substituted "Loss of Income" coverage for "Income Continuation Benefits." Substitution of terms created a conflict between the insurance policy and the law. The same principle invalidates other alternative terms or provisions that are inconsistent with the PIP laws.

The court also found that some kinds of income protection are not subject to the limitation of 85% of weekly income. For example, holiday pay, annual leave, credit leave, advanced annual leave, and advanced sick leave do not qualify as either "other disability insurance benefits" or "other income continuation benefits." Specifically, "other disability insurance benefits" are those disability benefits that are subject to [Chapter 48.20 RCW](#). And, "other income continuation benefits" mean other available PIP income continuation benefits defined in [Chapter 48.22 RCW](#) (as amended by [HOUSE BILL 1084](#)).

Companies should review their PIP coverage forms and file any necessary changes. Please contact Terence Nordahl, P&C Manager, at 360-725-7134 or terryn@oic.wa.gov if you have any questions.